

REMARKS

In the Office Action of September 26, 2003, the Examiner rejected all pending claims 1-69. Claims 43, 47, 50-52, 58-59, 62-63, and 68, were objected to because of informalities. Claims 1-2, 5-8, 13-15, 18-22, 24-25, 28-31, 36-38, 41-45, 47-48, 51-54, 59-61, and 64-68 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0031176 to Sim. Claims 23, 46, and 69 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sim. Claims 3-4, 26-27, and 49-50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sim in view of U.S. Patent No. 6,415,280 to Farber et al. Claims 9-12, 16-17, 32-35, 39-40, 55-58, and 62-63 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sim in view of U.S. Patent 6,490,666 to Cabrera et al.

Claims 1-5, 7-19, 24-28, 30-42, 47-51, and 53-65 remain in this application. Claims 6, 20-23, 29, 43-46, 52, and 66-69 have been cancelled without prejudice to facilitate the allowance of the application.

The Examiner objected to claims 43, 47, 50-52, 58-59, 62-63, and 68 because the claims recited an article of manufacture by their preambles, but recited steps of a method in the body. The Applicants appreciate the Examiner's notice of this oversight and have corrected the pending claims to correct this informality. These claims now recite an article of manufacture within the body of the claims.

The Examiner rejected claims 1-2, 5-8, 13-15, 18-22, 24-25, 28-31, 36-38, 41-45, 47-48, 51-54, 59-61, and 64-68 under 35 U.S.C. §102(e) as being anticipated by Sim. The Applicants have cancelled claims 6, 20-22, 29, 43-45, 52, and 66-68 to facilitate

allowance of the application. The applicant's respectfully disagree with the Examiner's rejection.

Sim fails to disclose, either explicitly or inherently, at least "storing the segments in a primary storage; copying at least one of the segments in the primary storage onto a secondary storage; and releasing at least one of the segments copied to the secondary storage, wherein space used by the released segment in the primary storage is available for use." These elements were formerly in dependent claim 6, but Applicants have incorporated these elements from claim 6 into currently amended claim 1. Similar elements have been amended into independent claims 24 and 47.

In Paragraph 3 of page 4 of the Examiner's rejection, the Examiner argued that these claim elements could be found in Figures 1, 3-4, 13, and 21 of Sim as well as in Paragraphs 109 and 115-121. The Examiner argued that the primary storage of Applicants' claims could be found in the Distribution Server 1510 of Sim and that the process of distributing these segments from the Distribution Server to other nodes on Sim's system constitutes copying at least one of the segments from the primary storage into a secondary storage. The Examiner also states that Sim's "clean" command, described in Paragraph 109 of Sim, functions to release at least one of the segments copied to the secondary storage wherein space used by the released segment in the primary storage is available for use.

However, Sim is directed at distributing and replicating large payload files across a network. The portions of Sim referred to by the Examiner, Paragraphs 115-121, are merely directed at distributing a file from a Distribution Server to multiple nodes. In other words, the file is multicast to a wide range of nodes. During this process, the file

of Sim is never released from the primary storage at the time of copying to other nodes. In contrast with Applicants claims, Sim makes multiple copies of the file from the Distribution Server to a plurality of nodes, leaving the original file in place. The Distribution Server never has the file released in order to free up space for other use.

In order to correct for this deficiency, the Examiner looks to the "clean" command discussed in Paragraph 109 of Sim. But, because Sim is directed to a Distribution Server, the clean command not only erases files from the Distribution Server, but also "issues a clean or equivalent command to its neighboring nodes requesting deletion of the files and its related file metadata from all the stations in the SCDN." (Paragraph 109). These related nodes are the same nodes that the Examiner alleges to be the secondary storage units. Thus, a clean command from Sim completely wipes out all traces of the file from both the Distribution Server (the primary storage) and the neighboring nodes (the secondary storage). Therefore, Sim does not disclose the storing, copying, and releasing elements in Applicants' claims. Applicants respectfully request the Examiner to withdraw his 102(e) rejection on independent claims 1, 24, and 47 at least for the foregoing reasons. In addition because claims 2, 5, 7-8, 13-15, 18-19, 25, 28, 30-31, 36-38, 41-42, 48, 51, 53-54, and 59-61 depend from these respective independent claims, these dependent are also allowable over Sim.

The Examiner rejected claims 23, 46, and 69 under 35 U.S.C. §103(a) as being unpatentable over Sim. These claims have been cancelled by Applicants without prejudice in order to expedite the allowance of this application.

Claims 3-4, 26-27, and 49-50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sim in view of Farber. For at least the reasons given with regard to

the rejection of claim 1, these claims are allowable over the cited prior art. Therefore, Applicants respectfully request the allowance of these pending claims.

Claims 9-12, 16-17, 32-35, 39-40, 55-58, 62-63 were rejected under 35 U.S.C. §103(a) as being unpatenable over Sim in view of Cabrera. For at the least the reasons given with respect to the previous rejection of claim 1, these claims are allowable over the cited prior art. Therefore, Applicants respectfully request the allowance of these pending claims.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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